Office of the
Police Complaint
Commissioner

British Columbia,
Canada

Office of the Police Complaint Commissioner

2005 ANNUAL REPORT

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OFFICE OF THE
POLICE COMPLAINT
COMMISSIONER
British Columbia
Canada

Speaker of the Legislative Assembly
Suite 207
Parliament Buildings
VICTORIA, BC V8V 1X4

Dear Mr. Speaker:

It is my honour to present to you and to the members of the Legislative Assembly the 2005 Annual Report for the Office of the Police Complaint Commissioner.

This report has been prepared in accordance with section 51.1(1) of the *Police Act*.

Yours truly,

Dirk Ryneveld, Q.C.,
Police Complaint Commissioner

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Table of Contents

Commissioner's Message 2

Role, Mandate & Purpose 10
- Police Complaint Commissioner's Jurisdiction & Role 11
- Police Complaint Commissioner's Mandate & Powers 11
- Organization Chart 12

The Code of Professional Conduct 13

The Complaint Process
- Who Can Make a Complaint? 14
- How are Complaints Made? 14
- What Happens to the Complaint? 14
- Public Trust Complaints 15
- Service or Policy Complaints 16
- Internal Discipline Complaints 16

Public Hearings 16

Public Hearings in 2005
- Public Hearing 2004-01: Cst Gemmell & Cst Kojima 18

Statistics for 2005
- Complaint Files Opened / Closed in 2005 20
- Files Opened in 2005 by Characterization 21
- Complaints Opened in 2005 by Allegation 22
- Disposition of Files Concluded in 2005 23
- Comparison of Dispositions – 2004 / 2005 24
- 2005 Files – Method Received 24

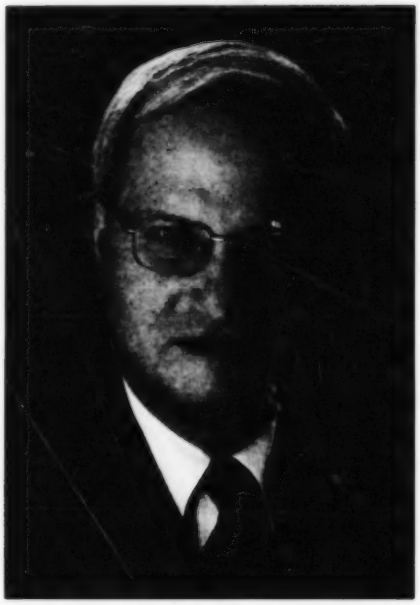
Budget 25

Complaint Dispositions 26

List of Support Groups 33

Municipal Police Agencies Contact Numbers 34

Commissioner's Message - "Moving Forward"



This past year (2005) marked the third year of my six-year term as Police Complaint Commissioner for British Columbia. The year 2005 was for this office a year filled with many challenges, some frustration and much hard work.

As I reflect on our efforts over the past year and assess the challenges ahead in the coming year, my overarching sense is one of cautious optimism. "Optimism" because Government has set in motion a process that has the potential to culminate in the meaningful *Police Act* reform for which I have been calling for two years; "optimism" because I have witnessed meaningful changes in certain police discipline processes that, coupled with meaningful legislation reform, bode well for the future of civilian oversight of the police discipline process; "optimism" because I remain so gratified by the ongoing efforts of my committed staff who work professionally, tirelessly and efficiently, amid competing pressures, in the public interest of British Columbians.

I find it necessary however to qualify my optimism with a realistic dose of caution. We do not yet know what the outcome of any legislative reform process will be; we do not know what changes will be recommended, and we do not know what changes will be accepted by government. Recent and very positive changes in attitude by certain police agencies must withstand the test of time and demonstrate a trust of the oversight process in future "high profile" cases. On the complainant side, this office must continue to function in a fair, principled and dignified manner, despite the emergence of certain advocacy organizations and individuals who have shown little hesitation in leveling unfair and even extreme pejorative comments when a particular decision, or the operation of the legislation, has not met with their approval.

The maelstrom of conflicting interests in which my office necessarily operates in its task of serving the public interest underlines the vital importance of the Commissioner's independence. As Members will be aware, the Police Complaint Commissioner's status as a civilian officer of the legislature was legislated in 1998, and was a fundamental pillar of the *Oppal Report's* recommendations in 1994 that police should be allowed to continue to investigate incidents of police misconduct. I underlined the critical importance of this independence in my 2005 ***White Paper*** recommending legislative reform. In his recent

B.C. Children and Youth Final Report (April 7, 2006), Ted Hughes, Q.C. recognized yet again the increased public confidence and legitimacy conferred on independent officers of the legislature:

> ***The current office for Children and Youth has performed its duties independently, but if public confidence in the child welfare system is to be restored, the independent body that speaks for children and youth must have a status that puts that independence beyond question. That is why I am recommending that the new Representative For Children and Youth be an independent officer of the legislature...*** **(p. 21)**
>
> ***The status of an Officer of the Legislature, and a fixed term appointment, will give the public confidence in the office's independence.*** **(p. 30)**

The Police Complaint Commissioner must be independent of police, complainants, police boards, advocacy groups, municipalities and Ministers of the Crown. Public confidence in the independence and integrity of the Police Complaint Commissioner can only be maintained through the safeguard of ensuring that the Commissioner is accountable directly to the Legislature.

Interaction with police

Apart from the ongoing legislative reform issue, one of the key challenges I faced this past year was how to best respond under the *Police Act* to the RCMP investigation I ordered into a collection of complaints against members of the Vancouver Police Department lodged with my office by the Pivot Legal Society. That file and its outcome typified many of the frustrations, the hard work, promising developments and accomplishments referred to at the outset of this message.

One of the initial frustrations arising from that file related to a lack of cooperation by some members of the Vancouver Police Department with the RCMP investigation. Those issues have been thoroughly elaborated upon in my June 1 2005 ***Report of the Police Complaint Commissioner regarding Pivot Complaints against the VPD.***[1] I will not repeat them here, except to observe that same Report appears to have been a catalyst for change.

I was pleased to see that almost all of my recommendations were acted upon. The first recommendation was that the Solicitor General or Director Police Services appoint a retired Justice to conduct an independent audit of the Vancouver Police Department's handling of *Police Act* complaints. A second recommendation was that the Attorney General and the Solicitor General urgently consider amendments to the *Police Act* Part 9 in accordance with my ***White Paper*** and Draft ***Police Complaint Act***. Those documents were attached as appendices to my 2004 Annual Report.

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[1] See OPCC website www.opcc.bc.ca under PCC Decisions

I was gratified to see that Josiah Wood, Q.C., a former Justice of the Supreme Court and Court of Appeal, was appointed to conduct an audit of not only the Vancouver Police Department's handling of complaints against the police, but to undertake a province-wide audit of the complaint process. This audit became part and parcel of his wider mandate to make appropriate recommendations for amendments to the *Police Act*. As I understand it, the audit being undertaken is comprehensive and includes the review of hundreds of files. It also includes interviews with various stakeholders in the police complaint process, including complainants, respondent officers, counsel or advocates for complainants, police department managers as well as members of my office.

Mr. Wood is still in the process of conducting his audit and review of the police complaint process. He has had access to various conceptual and legislative models of handling complaints against the police not only nationally, but also internationally. An independent survey of British Columbians serviced by municipal police departments has been conducted in order to obtain insights into their experiences, satisfaction, or concerns with the police complaint process

Additionally, I intend to shortly issue a Final Report on legislative reform that outlines my final recommendations in light of the many helpful comments I have received on my White Paper over the past year. Mr. Wood's final Report has the potential to be of great assistance in improving the present provisions of the police complaint process under the present *Police Act*.

I have also been pleased to note that my June 2005 Report coincided with a positive and constructive change in the way in which the Vancouver Police Department and in particular the Professional Standards Section (the former Internal Investigation Section (IIS)) has responded to the concerns raised therein. While problems remain with the governing legislative scheme, I am satisfied that Inspector Rollie Woods who now heads up that Section is committed to ensuring that investigations are thoroughly conducted, that officers comply with their duties under the *Police Act*, and that our office is properly kept apprised of file developments. I now get advance notice of potential problems when he becomes aware of them. The incidence of police self-reporting has increased significantly, as has the number of requests for ordered investigations. All this augurs well for the future, and is another reason I am happy to report that our hard work seems to have had a salutary effect on the process.

Also arising from my June 2005 Report I was gratified to see that the Vancouver Police Board acted upon my recommendation that it reconsider the "breach of the peace" policy and the "use of force" policy.[2] New policy that is in compliance with both the law and best practices has resulted. The Police Board has additionally taken steps to ensure appropriate training of officers in the implementation of the new policy guidelines.

Having focused so far on the province's largest municipal police force, it is important to emphasize that my mandate requires civilian oversight of the police discipline processes of all the municipal police departments. While our files with these departments have also

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[2] See Nov Decision of Pivot file Part II at www.opcc.bc.ca under PCC Decisions

demonstrated ongoing issues requiring legislative reform, I have been generally pleased with the cooperation on the ground.

Further, I have had nothing but cooperation from all of the other municipal police departments with respect to assisting us with external investigations when required, despite the fact that such a request constitutes a hardship for them. Most police departments are in need of more police officers and therefore a request by my office to assign investigators to external *Police Act* investigations has an impact both on staffing and budget. I am mindful of not "going to the same well" too often. Nevertheless, practical considerations often require that I make requests for assistance from the larger departments or, from time to time from the RCMP. The cooperation we have received from both the municipal departments and from the RCMP has been nothing short of exceptional. I will continue to call upon these police forces (including the Vancouver Police Department) from time to time to carry out external independent investigations on my behalf if I deem that to be necessary in the circumstances and to be in the public interest. One can never predict how often this will be necessary, but each case must be decided on its own distinct and unique facts.

Interaction with complainants and the public

I am pleased to report that we have improved our efforts at outreach, public access to and public information about the police complaint process.

Last year the Finance Committee was persuaded to provide additional funding to allow us to prepare and distribute pamphlets and brochures in eleven languages to reflect cultural groups within our province. We now have pamphlets and brochures that explain the police complaint process in English, Arabic, Chinese, Filipino, French, Hindi, Japanese, Korean, Persian, Punjabi, Spanish and Vietnamese. The brochures explain the police complaint process in simple terms and, along with the Form 1 Complaint forms, are now available in each language on our website at: www.opcc.bc.ca. We see this as a positive step forward to make the complaint process accessible to British Columbians from all cultural or linguistic backgrounds. If more languages are identified as necessary, we will take steps to add those to our array of options in the future.

In addition, members of my staff and I have attended various public forums to explain the police complaint process to British Columbians from all walks of life throughout the past year. Most recently, we held two separate presentations with simultaneous translations into six languages at events sponsored by the Inter-Cultural Association of Greater Victoria. Many of the attendees were new immigrants to Canada from various countries, of which some have had a different type of policing presence in their home countries. Part of the challenge is to explain that in Canada, and this province in particular, there is an avenue to express concerns about police conduct without fear from retribution.

Also, in 2005 staff from our office made presentations to several classes of Block III police recruits just prior to their graduation from the Justice Institute of BC on various aspects of the *Police Act*. We also participated in the development of a new two-week training course

for Internal Investigators and presented at this course as well. This type of outreach and education has continued into 2006.

Moreover, 2005 saw a change in the designation of the constables working for the Greater Vancouver Transportation Authority Police Service (GV TAPS). With this change the 90 GV TAPS officers now fall within Part 9 of the *Police Act* and as such come under the oversight mandate of the OPCC. Our office, in collaboration with the New Westminster Police Service, provided several training sessions to GV TAPS management and members concerning Part 9 of the *Police Act* and the police complaint process.

We have also been attempting to implement a program of mediation. That has proved to be slightly more difficult to implement because of reticence by some parties to participate in a scheme involving informal resolution. I am nevertheless convinced that in time, we will be able to persuade both citizens and police officers alike that mediation can result in positive outcomes without having to proceed to the full investigative process.

I would be remiss in addressing the subject of complainants if I did not make reference to the fact that the proper role of complainants under the *Police Act* process continues to be an issue on which the legislature will be required to clearly express its views in any reform package. Some complainants and their family members or representatives, especially in emotive and high profile cases involving serious injuries and deaths, have from time to time sought disclosure of information during the complaint process, and participation at public hearings, to an extent that is simply not allowed by the legislation as I read it. Some of these cases have led to litigation, which I hope will put to rest some of these issues.[3] In other cases, certain vocal representatives for complainants have responded to the complaint process not meeting their demands in terms that can be unfair and inaccurate, personal, pejorative and even conspiratorial. As difficult as some of this has been, I have found it very important at all times to separate the methods used by certain advocates from the very real concerns and pain that complainants and family members suffer in wanting to ensure, as I do, that any wrongdoing by police officers is identified and addressed by way of proper disciplinary or corrective measures. It is a fact of life that some people allege bad faith and conspiracies where their view of the world does not prevail.

No amount of logical persuasion, good will or application of the rule of law will satisfy those who will never accept that a ruling may not be in their favour, especially if such a ruling conflicts with other agendas. At the same time, I see it as my job to ensure that any person willing to listen in a spirit of fairness knows that it is my job to protect the public interest, and that I take most seriously my responsibility to provide vigorous and vigilant civilian oversight of the complaint process. It is for this reason that I have considered it so important to explain my decisions fully and transparently, even when they do not happen to coincide with the position being taken by a complainant. As to the larger policy question regarding the proper role of complainants under the legislation, I will have more to say about this when I issue my final set of White Paper recommendations.

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[3] See discussion of the Court of Appeal's recent decision in *Berg v. Police Complaint Commissioner*, discussed below.

Workload

As can be seen from the charts of statistics depicted in our Annual Report, 2005 was a very busy year for our office. We opened 439 complaint files as compared with 372 in 2004. The complexity of some of the files was significantly higher than in previous years, and we closed 381 last year compared with 393 the previous year. In evaluating these statistics, it must be remembered that although we obtained additional funding to hire an additional investigative analyst, we delayed in filling the position pending an analysis of specific office needs and where the position would be best utilized. As I advised the Finance committee in November:

> ***Last year I indicated that we needed to add an Investigative Analyst to our staff and received budget approval to do so. I delayed implementing the hiring of the new staff member pending a final determination as to whether the position should be located in Vancouver or in Victoria, as well as determining an appropriate job description for the new position. This was necessitated by the fact that Commission Counsel, Dana Urban QC., took a leave of absence in July to prosecute war criminals in Kosovo. Since Mr. Urban was also the Deputy Commissioner, I took some time to evaluate the effect that his departure would have on the staffing requirements of the office.***

Accordingly, for the entire statistical period of January 1 2005 – December 31 2005, all of the work was performed by only three Senior Investigative Analysts, two support staff and myself as the Commissioner. With Mr. Urban's departure, I found it appropriate to appoint Bruce Brown, one of our Sr. Investigative Analysts in Victoria to the role of Deputy Police Complaint Commissioner. Mr. Brown continues to handle a significant caseload of investigative files in addition to his duties as Deputy.

We are proud of our ability to serve the public interest with good governance as well as prudent fiscal management. None of this could have been accomplished without the excellent, dedicated and hardworking staff that make up the Office of the Police Complaint Commissioner. They have performed yeoman service for the citizens of this Province.

After careful analysis as to the specific needs of the office, we concluded that the new Senior Investigative Analyst should be located in Vancouver. We were extremely fortunate to obtain the services effective April of this year of an experienced former RCMP officer who had worked with the United Nations ICTY in the Hague as a senior investigator, and most recently with the UN in New York as a senior investigator into what was referred to as the "Oil for Food" scandal investigation in Iraq.

One Public Hearing was conducted during 2005. That Public Hearing concerned the assaults by some Vancouver Police officers on three individuals in Stanley Park. After a lengthy proceeding, the Adjudicator, former Mr. Justice Clancy, confirmed the decision of the Discipline Authority that two of the officers were to be dismissed as police officers. (Please see page 18 for a detailed summary)

As mentioned above, my office has also been involved in considerable litigation during the past year. Many of the issues before the various levels of courts have been occasioned by the fact that the legislation governing the police complaint process is ambiguous or unclear. The only resolution presently available to the various proponents of differing views is to launch court proceedings. Interestingly, during the past year no actions were launched by the police, but rather by dissatisfied complainants or advocacy groups. For example, earlier this month the BC Court of Appeal rendered its decision[4] in the case of ***Berg v. Police Complaint Commissioner Dirk Ryneveld, Q.C.*** That ruling, which accepted and vindicated the legal position advanced by this office, very helpfully clarified many issues, including the role and responsibilities of commission counsel, the status and role of complainants in *Police Act* proceedings and public hearings, the standing of certain parties to appeal decisions of adjudicators, and the police complaint commissioner's role in protecting the public interest. I have recently been advised that the Appellant intends to seek leave to appeal the Court of Appeal's unanimous decision to the Supreme Court of Canada. As I have repeatedly stated, until amendments to the legislation are made, we can anticipate that these lengthy and expensive legal challenges to the legislation will continue.

CACOLE

In addition to my role as Police Complaint Commissioner for the Province of British Columbia, I have for the past two years undertaken wider duties to promote best practices in public oversight of police across Canada, through our national organization, CACOLE. I was re-elected as President of the CANADIAN ASSOCIATION OF CIVILIAN OVERSIGHT OF LAW ENFORCEMENT (CACOLE) at the annual conference in Montreal last year. This year our National conference with representatives from across Canada will meet at our 2006 conference Oct 2 – 5 in Vancouver. We will be hosting representatives from all over the world who are either involved or interested in the role of public oversight of police.

I have also been an advocate for the creation of an international organization of civilian oversight agencies. We propose to hold the inaugural meeting of that organization jointly with the CACOLE conference in Vancouver this year. We anticipate that representatives from five continents will be in attendance. Canada can be a leader in the field of public oversight of law enforcement. There are many countries in the world where, unlike in Canada, human rights are not respected and the police are part of the problem rather than the solution. As I have stated before, Canadians are very fortunate to be so well policed. A number of representatives from these countries have expressed an interest in finding out how to develop and institute a model of civilian oversight in their respective countries and to promote best practices in their police forces. We enjoy professional police forces that have great credibility worldwide, and we are rightfully proud of that fact. We also have a solid oversight model in British Columbia, which, with key amendments can be an example for many other jurisdictions. I am very enthused that Canada in general and British

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[4] *Berg v. Police Complaint Commissioner* 2006 BCCA 225; CA 32676; 20060509

Columbia in particular can play a significant supportive role in promoting human rights in this way.

Legislative Reform

As I indicated earlier, we have experienced frustrations with the inadequacies of the legislation and the time it takes to move amendments forward. In my last Annual Report (2004) I appended our draft White Paper and proposed *Police Complaint Act*. We have met with many of the stakeholders and have obtained their comments. Some of these stakeholders include the BC Association of Municipal Police Chiefs of British Columbia, the VPD Police Union, the BC Federation of Police Officers, BC Civil Liberties Association and many individual stakeholders. Hopefully, once Mr. Wood has completed his review and made his recommendations, the legislative agenda will proceed on an expedited basis.

Mr. Speaker, at the time of writing this message, I am now mid-term in my mandated six-year term. We have accomplished much, but there is much left to do. In general, I am extremely satisfied by the improvements that I have seen occur during the first half of my term. The enthusiastic support of our dedicated and competent staff have encouraged and invigorated me to tackle the second half of my term. Although we have been decidedly "moving forward", I am indeed optimistic that even further improvements can be made in the future.

Respectfully submitted,
Dirk Ryneveld, Q.C.
Police Complaint Commissioner
June 2005

Role, Mandate & Purpose

The Office of the Police Complaint Commissioner is an independent agency established under Part 9 of the *Police Act* to ensure that complaints against municipal police in British Columbia are handled fairly and impartially.

Complaints concerning the conduct of sworn members of the following municipal police departments and agencies, or complaints about the policies of the department, fall within the mandate of the Office of the Police Complaint Commissioner:

- Abbotsford Police Department
- Central Saanich Police Service
- BCCFSEU – British Columbia Combined Forces Special Enforcement Unit *(formerly the Organized Crime Agency of British Columbia)*
- Delta Police Department
- Greater Vancouver Transportation Authority Police Service (GVTAPS) (Effective as of December 5th, 2005)
- Kitasoo Xaixais Police Service
- Nelson City Police Department
- New Westminster Police Service
- Oak Bay Police Department
- Port Moody Police Department
- Saanich Police Department
- Stl'atl'imx Tribal Police
- Vancouver Police Department
- Victoria Police Department
- West Vancouver Police Department

The Office of the Police Complaint Commissioner provides an accessible way for the public to complain to an independent body about the conduct of any municipal police officer. The OPCC was established to ensure that the complaint process is conducted with impartiality and fairness, both to members of the public and to members of the municipal police forces.

Police Complaint Commissioner's Jurisdiction & Role

The Commissioner has statutory jurisdiction over complaints lodged against municipal and tribal police officers, as well as the services or policies of a municipal police department, designated tribal police service or designated law enforcement agency.

The Police Complaint Commissioner for the Province of British Columbia does not have jurisdiction over the handling of complaints against members of the Royal Canadian Mounted Police. The RCMP has a federal Commission to handle complaints against their sworn members. Complaints received at the Office of the Police Complaint Commissioner respecting an RCMP officer are forwarded to the Commission for Public Complaints Against the RCMP.

The Police Complaint Commissioner oversees the handling of all Public Trust, Service or Policy, or Internal Discipline complaints.

Police Complaint Commissioner's Mandate & Powers

The *Police Act* requires the Commissioner to:

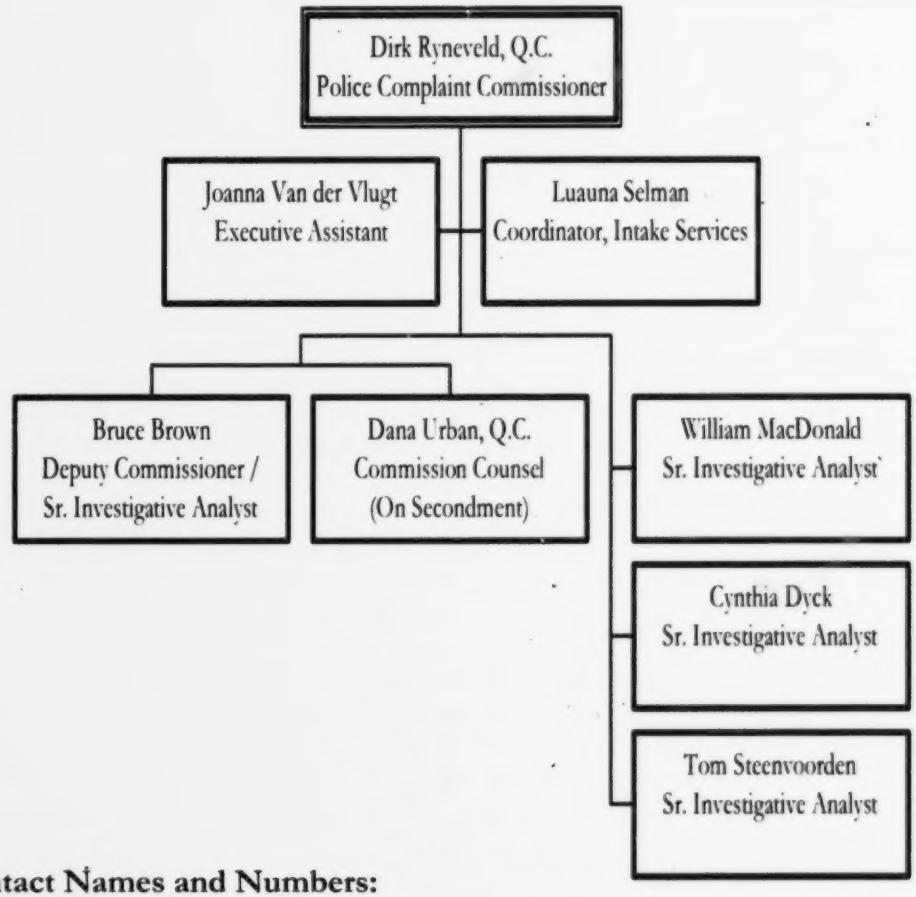
- Oversee the handling of complaints about municipal police or police services or policies.
- Receive complaints from any source.
- Maintain a record of those complaints and their dispositions.
- Compile statistical information about complaints about municipal police or police services or policies.
- Report regularly to the public about complaints, complaint dispositions, and the complaint process.
- Inform and assist the public, complainants, police officers, police boards and adjudicators with the complaint process and the handling of complaints.
- Periodically review the complaint process and make recommendations for the improvement of that process in the Annual Report.
- Establish procedures for mediation and guidelines for informal resolution of Public Trust complaints.

The *Police Act* permits the Commissioner to:

- Engage in or commission research on any matter relating to the police complaint process under Part 9 of the *Police Act.*
- Make recommendations to police boards about written policies or procedures that may have been a factor that gave rise to a complaint.
- Prepare guidelines about the receiving of complaints generally.
- Make recommendations to the director of Police Services or the Attorney General that a review or audit be undertaken to assist police in developing training designed to prevent recurrence of problems revealed by the complaint process.

- Make recommendations to the Attorney General for a public inquiry under the provincial *Inquiry Act*.
- Refer a complaint to Crown Counsel for possible criminal prosecution of a police officer.

OPCC Organizational Chart



Contact Names and Numbers:

Victoria Office
3rd Floor, 756 Fort Street
PO Box 9895, Stn Prov Govt
Victoria, BC V8W 9T8
Telephone: 250.356.7458
Fax: 250.356.6503

Vancouver Office
320 – 1111 Melville Street
Vancouver, BC V6E 3V6
Telephone: 604.660.2385
Fax: 604.660.1223

Toll Free: Enquiry BC at 1.800.663.7867

The *Code of Professional Conduct*

All sworn municipal police officers in the Province of British Columbia perform their duties according to the *Code of Professional Conduct Regulation*, B.C. Reg. 205/98. The purpose of this *Code of Professional Conduct* is to establish a code of conduct that is applicable to all police officers and to provide a guide to assist municipal police departments in delivering fair, impartial and effective police services to the communities they serve. The ultimate aim of this *Code* is to maintain the public confidence in the police by ensuring that police officers are accountable to the public in a way that is fair to both police officers and to the public, yet not unduly interfering with the ability of the police to carry out their lawful duties.

The *Code of Professional Conduct* statement of core values affirms that all police officers:

(a) accept the duty to act without favour or personal advantage;
(b) are committed to treating all persons or classes of persons equally, regardless of race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age or economic and social status; and
(c) agree to uphold rights and freedoms guaranteed or protected by law.

The *Code of Professional Conduct* identifies 12 potential "disciplinary defaults". They are:

- Discreditable conduct
- Neglect of duty
- Deceit
- Improper disclosure of information
- Corrupt practice
- Abuse of authority
- Improper use and care of firearms
- Damage to police property
- Misuse of intoxicating liquor or drugs in a manner prejudicial to duty
- Conduct constituting an offence
- Being a party to a disciplinary default
- Improper off-duty conduct

The *Code* also provides guidance to Discipline Authorities as to the appropriate corrective or disciplinary measures to be imposed. If appropriate, corrective measures are preferred to purely punitive measures. The goal for everyone, the officer, the complainant, the general public and the department involved, is to ensure that the misconduct committed is not repeated or continued. Corrective measures seek to address the problem and provide training or direction to ensure that the officer understands why the particular misconduct is

unacceptable and how to improve his or her performance as a police officer. The Discipline Authority may impose one or more of the following measures as provided by the *Code*:

- Verbal reprimand
- Written reprimand
- Direction to undertake professional counseling
- Direction to undertake special training or re-training
- Direction to work under close supervision
- Suspension without pay for not more than 5 scheduled working days
- Transfer or re-assignment
- Reduction in rank
- Dismissal

The Discipline Authority may also determine that although a default has been substantiated, neither corrective nor disciplinary measures are warranted. In many of these situations, the respondent officer is given "Managerial Advice" or "Advice as to Future Conduct" to ensure that the error or behaviour is not repeated in future similar situations. Although this guidance is not recognized by the *Code*, it is often recorded on the respondent's personnel file.

The Complaint Process

Who can make a complaint?

Anyone who has concerns about the actions or comments of a municipal police officer or the service provided by a municipal police department may make a complaint.

How are complaints made?

A complaint may be made orally or in writing, but before it can be processed under the *Police Act*, it must be made in writing, on an approved form (Form 1 – Record of Complaint). After a complaint has been made, it can be withdrawn at any time.

What happens to the complaint?

The Office of the Police Complaint Commissioner forwards all complaints received to the appropriate police department for investigation. If the complaint is made at a police department, copies must be forwarded to the Office of the Police Complaint Commissioner.

The police department investigating a complaint must report to the Police Complaint Commissioner at each stage of the investigation to advise the Commissioner what is happening with the complaint. The complainant is also provided with ongoing information about his or her complaint.

Three types of complaints can be made: *Public Trust, Service or Policy,* or *Internal Discipline*. Depending on the circumstances described in the complaint, all complaints will be characterized as one of these or as a combination of two or more, referred to as a *compound complaint*. Each type of complaint is processed differently.

Most complaints fall under the Public Trust category and are processed in the following manner:

Public Trust Complaints

Public Trust complaints affect the relationship between a police officer and the community and allege specific misconduct on the part of a police officer. A Public Trust complaint, if not withdrawn by the complainant, will be resolved in one of three ways:

1. **Informal Resolution**

   A Public Trust complaint may be resolved informally by face-to-face discussions, by letter, by telephone, or with the help of a professional mediator. A complaint is resolved when both parties (the complainant and the police officer) have given their signed consent, after which either party has 10 days to withdraw his or her consent in writing. Otherwise, the informal resolution is final and binding.

2. **Summary Dismissal**

   A Public Trust complaint may be dismissed if there is no likelihood that further investigation would produce evidence to substantiate the complaint; if the complaint concerns a matter that happened more than 12 months ago; or if the complaint is deemed to be frivolous or vexatious. If the complainant disagrees with the department's decision to dismiss the complaint, he or she may apply to the Police Complaint Commissioner for a review of the police department's decision.

3. **Investigation & Conclusion**

   A Public Trust complaint will be investigated if it is not informally resolved or summarily dismissed. Only in rare circumstances will a complaint be investigated by an external police agency, and only at the discretion of the Police Complaint Commissioner or the Discipline Authority.

   The investigation into a complaint must normally be completed within six months after the date the approved complaint form was filed. The Police Complaint Commissioner may grant an extension of this time. If the complainant is not satisfied with the results of the investigation, he or she may apply to the Police Complaint Commissioner for a Public Hearing.

Service or Policy Complaints

Service or Policy complaints are complaints about the policies, procedures and services provided by a municipal police department and affect the relationship between the police department and the community. An example of a Service or Policy complaint would be a complaint that insufficient police officers were stationed at a public event.

Service or Policy complaints are the responsibility of each police board. The police board must advise the Director of Police Services, the Police Complaint Commissioner and the complainant of the results, including what course of action, if any, was taken and must provide a summary of the results of any investigation or study.

The Police Complaint Commissioner cannot require a board to take any particular course of action regarding a Service or Policy complaint, but may make recommendations to the board.

Internal Discipline Complaints

Internal Discipline complaints concern police misconduct that is of concern to the officer's employer, but does not affect the officer's relationship with the public. An example of an Internal Discipline complaint would be that a police officer did not secure his or her firearm properly in the police locker. The principles of labour law apply to the investigation and processing of Internal Discipline complaints. The Public Trust complaint process does not apply to this category of complaints.

Public Hearings

The *Police Act* empowers the Police Complaint Commissioner to order Public Hearings into complaints.

At the conclusion of an investigation into a complaint, both the complainant and/or the respondent police officer may request a Public Hearing.

If the respondent police officer has received a disciplinary measure more severe than a verbal reprimand, he or she has an automatic right to a Public Hearing on request.

If the complainant requests a Public Hearing, the Police Complaint Commissioner must determine if there are grounds to believe the hearing is necessary in the public interest. The Police Complaint Commissioner may also arrange a Public Hearing without having received a request from either the complainant or the respondent police officer if the Police Complaint Commissioner believes that the Public Hearing is necessary in the public interest.

The Commissioner will consider the following factors before making the decision whether to arrange a Public Hearing:

- The seriousness of the complaint.
- The seriousness of the harm done.
- Whether a Public Hearing is needed to discover the truth.
- Whether there was a flaw in the investigation conducted by the police department, the measures proposed are inappropriate or inadequate, or the Discipline Authority's interpretation of the ***Code of Professional Conduct*** was incorrect.
- Whether a Public Hearing is necessary to restore or preserve public confidence in the police as well as the complaint process.

Once the Police Complaint Commissioner has determined that the Public Hearing is in the public interest, the Commissioner must appoint an Adjudicator to preside over the hearing. Associate Chief Justice Dohm of the Supreme Court of British Columbia nominates a retired justice of the Supreme Court or a retired judge of the Provincial Court of British Columbia. The Commissioner then appoints that individual as Adjudicator for the purposes of that particular Public Hearing.

The Commissioner appoints Commission Counsel who may at his discretion call any witness who has relevant evidence to give, whether or not the witness was interviewed during the original investigation. Commission Counsel may also introduce into evidence any record, including any record of the proceedings, concerning the complaint up to the date of the hearing.

The Adjudicator must decide if the alleged disciplinary default has been proven on the civil standard of proof. If the disciplinary default is proven, the Adjudicator may impose a disciplinary or corrective measure, or may confirm, increase or reduce the disciplinary or corrective measures already proposed by the Discipline Authority.

Once a decision has been reached at the Public Hearing, the only appeal available to that decision is to the Court of Appeal on questions of law.

The rules governing Public Hearings and Office of the Police Complaint Commissioner policy regarding the ordering of a Public Hearing may be found on the OPCC website at www.opcc.bc.ca.

Public Hearings in 2005

Following is a brief summary of the Public Hearing that was held in 2005. Full decisions rendered by the Adjudicators on concluded Public Hearings may be found on the OPCC website at www.opcc.bc.ca. Schedules for any upcoming Public Hearings are also listed on our website.

- **PH2004-01**
  Constable Gabriel Kojima and Constable Duncan Gemmell

This Public Hearing arose from an incident that occurred in Stanley Park on January 14th, 2003. Six Vancouver Police Department members were alleged to have apprehended four individuals in Granville Mall, and "breached" three males to an area known as Third Beach, dropping off the fourth individual, a female, en route. Once at Stanley Park, these officers allegedly assaulted the three males. The officers were criminally charged, plead guilty in Provincial Court and sentenced. Following a discipline hearing on January 28th, 2004, Vancouver Police Chief Graham dismissed Cst. Duncan Gemmell and Cst. Gabriel Kojima. Cst. James Kenney, Cst. Chris Cronmiller, Cst. Raymond Gardner and Cst. Brandon Steele received lesser discipline. The Police Complaint Commissioner reviewed the entire matter and confirmed Chief Graham's decision.

On February 17th and 25th, 2004, counsel for Constables Gemmell and Kojima requested the Police Complaint Commissioner (PCC) arrange a Public Hearing for their clients. The PCC is required by statute to arrange for a Public Hearing if requested by Respondents who receive discipline greater than a written reprimand. Accordingly, a Public Hearing was arranged to be held before Adjudicator Donald Clancy, Q.C., a retired Supreme Court Justice.

On April 11th, 2005, the hearing commenced. After six weeks of testimony from VPD members, the complainants, and witnesses, on June 15, 2005, Adjudicator Clancy concluded as follows:

> *The discipline defaults of abuse of authority, deceit and discreditable conduct have been admitted and established on the evidence. I am satisfied that the assaults were not committed in the heat of battle nor can the other disciplinary defaults be excused for that reason. There was not sufficient evidence to conclude that all of the officers agreed ahead of time to assault the Complainants. I am satisfied there was an intent to take them to a secluded place and intimidate them. It may be that physical violence was not contemplated. As events unfolded however, I find it is not an exaggeration to say that a vigilante mob mentality developed.*
>
> *I am also satisfied that the officers did, as suggested by Mr. Ryneveld, try to escape detention and ultimate punishment. They failed to take notes. No proper report of the incidents was filed. They agreed in the debriefing not to speak of the matter except among themselves.*
>
> *It is easy to understand the support for the officers expressed by members of the public. They do a dangerous and difficult job. They deal with difficult and disreputable criminals. I can understand why it is necessary at times to deal with them in a manner they understand. That does not excuse failure to follow*

VPD regulations and policy nor the breaching of the rights of citizens. It certainly cannot excuse criminal actions on the part of police.[5]

On July 27th, 2005, Adjudicator Clancy ordered with respect to Cst. Gemmell's involvement in the assaults upon Jason Desjardins and Grant Wilson that Constable Gemmell be dismissed from the Vancouver Police Department. With respect to Constable Kojima's involvement in the assaults upon Barrie Lawrie and Jason Desjardins, the Adjudicator ordered that Constable Kojima also be dismissed from the Vancouver Police Department. The Adjudicator, in making his decision, confirmed the original decision of Chief Constable Jamie Graham.

[5] Reasons for Decision (Part 1) of Adjudicator Clancy Q.C., in the matter of the Public Hearing into Complaint Against Cst Gemmell and Cst Kojima, PH 2004-01, dated June 15, 2005, at pp 40-41.

Statistics

Complaint Files Opened in 2005

	2005	2004	2003	2002	2001	2000
Abbotsford	14	19	20	17	21	12
Central Saanich	5	2	8	6	7	5
BCCFSEU	0	1	0	N/A	N/A	N/A
Delta	14	8	18	20	10	15
Esquimalt	0	0	0	14	17	21
Kitasoo Xaixais	0	0	0	0	0	0
Nelson	1	7	6	8	4	5
New Westminster	20	22	27	19	15	15
Oak Bay	6	1	1	4	5	11
Port Moody	4	4	5	2	3	4
Saanich	35	21	28	25	40	36
Stl'atl'imx	1	0	0	2	1	2
Vancouver	220	182	237	204	148	173
Victoria	91	93	96	77	73	73
West Vancouver	15	12	10	9	12	27
TOTAL:	**426**	**372**	**456**	**407**	**356**	**399**

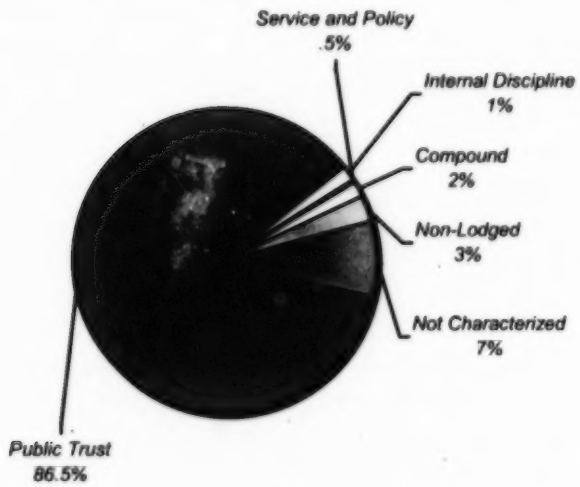
Complaint Files Closed in 2005

	2005	2004	2003	2002	2001	2000
Abbotsford	11	20	17	16	17	38
Central Saanich	4	7	4	9	4	3
BCCFSEU	1	0	0	0	N/A	N/A
Delta	11	10	18	15	13	16
Esquimalt	0	1	8	12	16	17
Kitasoo Xaixais	0	0	0	0	0	0
Nelson	8	2	9	3	6	6
New Westminster	21	21	17	16	20	15
Oak Bay	4	1	2	2	11	5
Port Moody	2	6	2	3	2	3
Saanich	32	17	32	26	46	35
Stl'atl'imx	0	0	0	3	2	0
Vancouver	183	209	145	197	132	202
Victoria	88	89	101	68	73	77
West Vancouver	16	10	11	9	13	22
TOTAL:	**381**	**393**	**366**	**379**	**355**	**439**

- As of December 3rd, 2002, complaints regarding municipal members of the BC Combined Forces Special Enforcement Unit (BCCFSEU) fall within the mandate of the OPCC
- As of January 1st, 2003, Esquimalt Police Department was formally amalgamated with the Victoria Police Department.
- As of December 5, 2005, the Greater Vancouver Transportation Authority Police Service (GVTAPS) became an officially recognized police agency pursuant to the *Police Act*.

Files Opened in 2005 by Characterization

	Opened	Public Trust	Internal Disc.	Service Policy	Comp'd	Non Lodged	Not Char.
Abbotsford	**14**	9	1	0	1	0	3
Central Saanich	**5**	4	1	0	0	0	0
BCCFSEU	**0**	0	0	0	0	0	0
Delta	**14**	11	0	0	0	0	3
Kitsasoo Xaixais	**0**	0	0	0	0	0	0
Nelson	**1**	1	0	0	0	0	0
New Westminster	**20**	16	1	0	0	0	3
Oak Bay	**6**	5	0	0	1	0	0
Port Moody	**4**	3	0	0	0	0	1
Saanich	**35**	34	0	0	0	0	1
Stl'atl'imx	**1**	1	0	0	0	0	0
Vancouver	**220**	193	1	0	3	5	18
Victoria	**91**	80	2	0	2	2	5
West Vancouver	**15**	8	0	2	0	5	0
TOTAL	**426**	5	6	2	7	12	34



Every complaint that is recorded on a Form One Record of Complaint is required by section 52.1(1) of the *Police Act* to be characterized as one of three types:

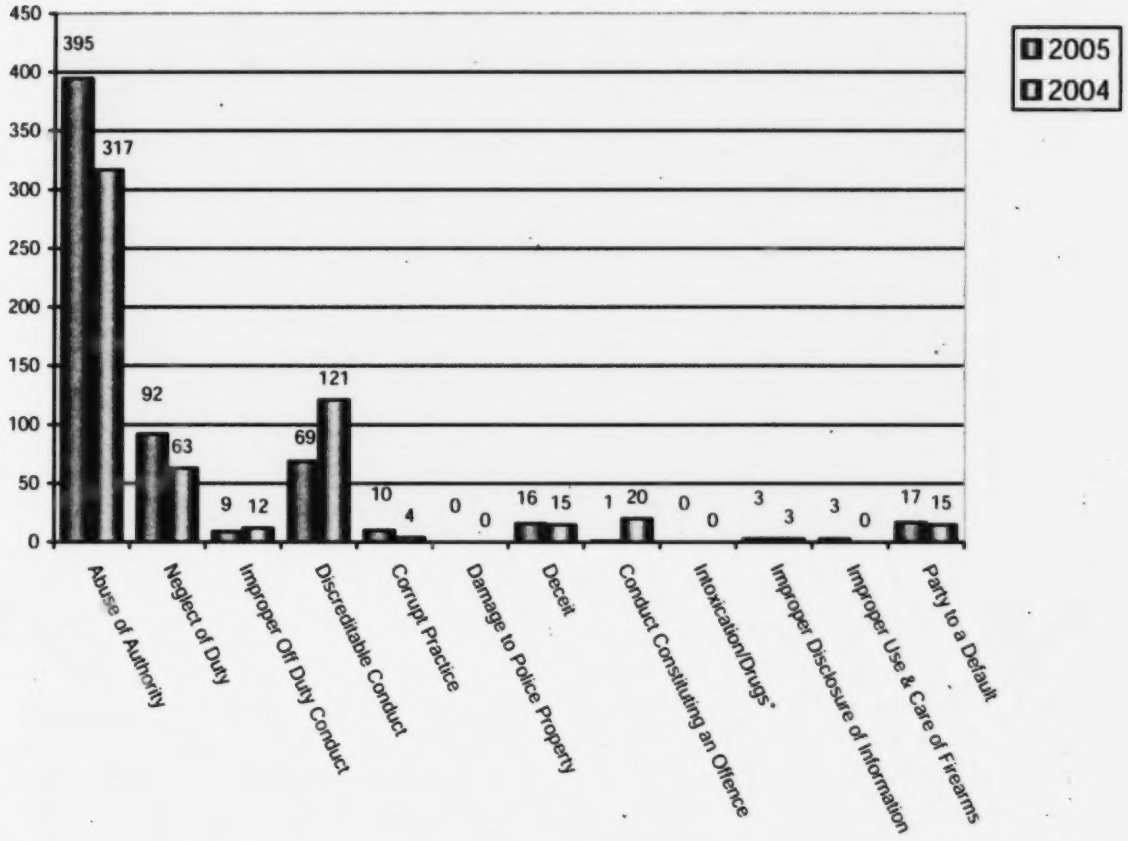
- Public Trust
- Internal Discipline
- Service or Policy

Compound complaints are complaints that have elements of one or more of the above.

Non-Lodged Complaints are letters of complaint where the complainant has chosen not to formally proceed under the *Police Act* by filing a Form One (or a Form One is pending)

Not Characterized refers to complaints that have not yet been characterized.

Complaints Opened in 2005 by Allegation (Alleged defaults may or may not have been substantiated)



A complaint lodged against an officer may contain one or more allegations of a discipline default as defined by the *Code of Professional Conduct Regulations*, B.C. Reg. 205/98. The *Code* lists the following potential defaults:

Abuse of Authority	Deceit
Neglect of Duty	Conduct Constituting an Offence
Improper Off-Duty Conduct	Misuse of Intoxicating Drugs /Alcohol
Discreditable Conduct	Improper Disclosure of Police Information
Corrupt Practice	Improper Use/Care of Firearm
Damage to Police Property	Party to a Discipline Default

Disposition of Files Concluded in 2005

	A/W	R&C	IR	SD	NS	Substantiated		Other	TOTAL
						Corr/ Disc	No Corr/Disc		
Abbotsford	1	1	5	0	3	0	0	1	**11**
Central Saanich	1	0	1	2	0	0	0	0	**4**
BCCSFEU	0	0	0	0	1	0	0	0	**1**
Delta	3	1	0	2	4	1	0	0	**11**
Kitasoo Xaixais	0	0	0	0	0	0	0	0	**0**
Nelson	0	0	3	1	3	1	0	0	**8**
New Westminster	1	1	1	3	11	4	0	0	**21**
Oak Bay	0	0	0	4	0	0	0	0	**4**
Port Moody	1	0	0	1	0	0	0	0	**2**
Saanich	1	1	7	8	13	2	0	0	**32**
Stl'atl'imx	0	0	0	0	0	0	0	0	**0**
Vancouver	16	11	3	23	123	2	2	3	**183**
Victoria	15	5	33	27	5	3	0	0	**88**
West Vancouver	4	2	2	2	4	1	1	0	**16**
TOTAL	**43**	**22**	**55**	**73**	**167**	**14**	**3**	**4**	**381**

A/W Abandoned / Withdrawn

R&C Reviewed & Closed – For Service and Policy complaints and for non-lodged complaints. Upon receipt of the final response by the police board or department, the OPCC reviews and closes the file.

IR Informal Resolution

SD Summarily Dismissed – The Discipline Authority can summarily dismiss a complaint if: there is no likelihood further investigation would produce evidence of a default; the incident occurred more than 12 months prior to filing the complaint; or the complaint is frivolous or vexatious.

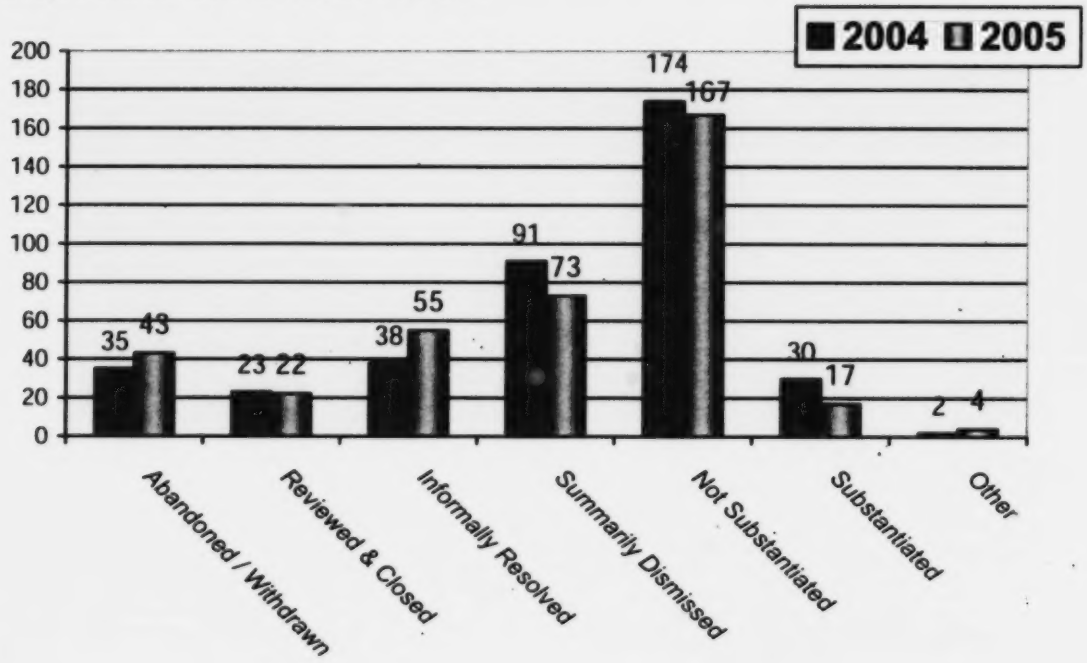
NS Not Substantiated – Following an investigation, the Discipline Authority determines there is no evidence to support the allegation of a default.

Corr/ Disc Substantiated – Following an investigation, the Discipline Authority determined the complaint was substantiated and ordered corrective or disciplinary measures.

No c/d Substantiated – Following an investigation, the Discipline Authority determined the complaint was substantiated, but that corrective or disciplinary measures are not warranted.

Other OPCC has no jurisdiction; or Officers retired/resigned

Disposition of Files 2004 / 2005



2005 Files – Method Received

	Police Dept	Email	Fax	Mail	Walk-in	Not Recorded
Abbotsford	5	0	2	5	0	2
Central Saanich	3	0	0	2	0	0
BCCSFEU	0	0	0	0	0	0
Delta	5	0	3	4	2	0
Kitasoo Xaixais	0	0	0	0	0	0
Nelson	1	0	0	0	0	0
New Westminster	4	0	2	7	4	3
Oak Bay	1	0	0	3	2	0
Port Moody	1	0	1	1	0	1
Saanich	12	1	4	12	6	0
Stl'atl'imx	0	0	0	0	0	1
Vancouver	47	4	46	73	41	9
Victoria	26	2	25	21	9	8
West Vancouver	9	0	2	4	0	0
TOTAL	**114**	**7**	**85**	**132**	**64**	**24**

Budget

Fiscal Year ending March 31st, 2005

Number of Staff:	7 FTE's
Total Operating Budget:	$1,290,000.00
Total Capital Budget:	$ 25,000.00
TOTAL:	**$1,315,000.00**

Budgets 2001 to 2005

	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006
Capital Budget	$15,000.00	$25,000.00	$25,000.00	$25,000.00	25,000.00
Operating Budget	$1,299,000.00	$1,101,000.00	$985,000.00	1,110,000.00	1,290,000.00
FTE's Allotted	11	11	9 (6 filled)	6	7

Complaint Dispositions

The Police Complaint Commissioner is required by section 50 of the *Police Act* to regularly prepare reports of the complaint dispositions made or reached during the reporting period.

The following are summaries of a few of the complaints that were concluded during the period from January 1st to December 31st, 2005. Complaints may be concluded in a variety of ways and the following is intended to provide a representative sample of those dispositions, from informal resolutions and summary dismissals through to those involving disciplinary actions.

As noted earlier, possible corrective or disciplinary measures range from none being warranted to verbal or written reprimands, suspensions for up to five days with or without pay, or dismissal from the police department. Only disciplinary measures are recorded in the subject officer's Record of Discipline.

With the exception of those cases that proceeded to Public Hearing, the disciplinary or corrective measures imposed reflect decisions made by the individual police department that employs the Respondent officer. All dispositions are reviewed and confirmed by the Office of the Police Complaint Commissioner (OPCC) regardless of whether a request for a review is received.

- **File No. 2779 – Public Trust**
  Default: Improper Off-Duty Conduct

  The complainant filed a Form One Record of Complaint alleging the respondent police officer, a friend of the complainant's family, seized firearms owned by the complainant's husband during a family meeting. Although the respondent was asked to attend in the capacity of a mediator, the complainant claims that the respondent was not on duty and did not have the authority to seize and store her husband's firearms.

  Following an investigation, the Discipline Authority concluded that the respondent had committed the disciplinary default of ***Improper Off Duty Conduct***. The respondent was issued a ***written reprimand*** and further ***corrective measures*** with the officer receiving firearms legislation training to ensure full understanding of the duties and responsibilities of a peace officer in relation to firearms.

- **File No. 2826 – Public Trust**
  Default: Abuse of Authority

  The complainant in this matter attended the police department to discuss a criminal investigation into her brother's death. When the complainant attempted to provide the officer with information, she felt the officer was unfair and biased towards her because her deceased brother was native. The complainant also felt that the officer sympathized with the accused, "portraying the accused to be a nice person". When the complainant raised the issue that she and her mother had not been contacted to identify her brother's body, and they had learned of his death through other sources, the respondent officer, according to the complainant, only offered trite excuses.

  During the course of the investigation, the complainant and the respondent agreed to attempt to informally resolve the complaint. At the meeting, the parties discussed their concerns, and the respondent apologized to the complainant. Both parties signed a ***consent letter*** and the complaint was concluded as ***informally resolved***.

- **File No. 2676 – Public Trust (Third Party)**
  Default: Abuse of Authority

  The complainant witnessed two police officers restrain and handcuff a naked man walking down the sidewalk. The complainant reported that one officer had pushed the man to the ground, while the second officer punched the man in the head two to three times. The complainant felt that the first officer had conducted himself appropriately, but the second officer had used excessive force with the repeated strikes to the head.

  An investigation was conducted into the matter and statements from all parties involved were obtained. Based on the investigation's findings, the Discipline Authority determined that the individual apprehended had not responded to the two officers' verbal communications to stop, leaving the officers with no other option but to use physical force in order to take him into custody.

  The man taken into custody did not wish to lodge a complaint against the officers and admitted that he had not been lucid enough to understand the officers' requests. He also acknowledged that the officers had to wrestle him to the ground in order to be handcuffed. The individual felt the officers were "excellent" and "courteous", and that they had made him feel comfortable in the ambulance on the way to the hospital.

  The OPCC confirmed the discipline authority's decision that the complaint was ***unsubstantiated.*** The discipline authority still thought it beneficial that the second officer receive ***Managerial Direction*** regarding use of force as it pertains to hand strikes to the head.

- **File No. 3036 – Public Trust**
  Default: Discreditable Conduct

  As a member of the strike force team that executed search warrants, the respondent volunteered to log items seized from a residence and place them into property and supply. It was brought o the attention of a supervising officer that the respondent may have retained a novelty item that had been seized, and in fact this item had later been found on the respondent's desk. The property and supply section advised that they also had concerns in regards to how the item had been logged.

  Exhibit reports, flowcharts and a statement from the respondent were examined. The novelty item was not noted in any of these documents.

  The police department lodged a complaint and after an investigation had been conducted the default of Discreditable Conduct was ***substantiated***. The respondent accepted the disciplinary measures of a ***three-day suspension without pay*** and to ***work under close supervision for a period of six months.*** The OPCC reviewed the entire investigation file and was satisfied with the conclusions and the measures imposed on the respondent.

- **File No. 2486 – Public Trust**
  Default: Neglect of Duty

  The complainant alleges that officers broke into his home and, while arresting him, allowed the police dog to "chew" on him, tearing his clothing and causing puncture wounds. The complainant later observed the police escort the owners of the house into his residence. He protested, fearing the owners would steal his property. While taken into custody the complainant was informed that the police department had cancelled his lease. The next day the complainant found out that not only had his lease been cancelled, but also personal items had been stolen.

  A lengthy investigation revealed that officers had attended the complainant's residence with outstanding warrants for his arrest. The officers had unsuccessfully attempted to communicate with the complainant and, due to his violent history, including escape, the police service dog was deployed to search the residence. The complainant chose to remain inside the residence despite being advised prior to the deployment of the police dog. The complainant suffered a dog bite but declined medical attention from ambulance personnel. The landlord of the residence had been given control of the residence since the complainant had been arrested. The landlord was instructed to comply with the provisions of the ***Residential Tenancy Act*** if she wished the complainant evicted. In a subsequent interview, the landlord advised that the band lawyer was responsible for the complainant's eviction. The police department had nothing to do with it.

When the homeowners/landlords were questioned by one of the respondent officers as to whether they had removed items from the complainant's residence, they had advised that they would have returned the items to the complainant's residence but someone had changed the locks without their permission. Believing this to be a civil matter, the respondent officer took no further action to investigate the theft allegation.

The disciplinary defaults with respect to nine out of the ten allegations were ***summarily dismissed***. The ***Neglect of Duty*** default concerning the respondent's neglect in further investigating the theft allegation was ***substantiated***. No corrective measures or discipline was warranted, but the respondent was given ***managerial advice*** regarding differentiating between civil and criminal matters.

- **File No. 2525 – Public Trust**
  Default: Discreditable Conduct/Corrupt Practice/Improper Off-Duty Conduct

A police officer filed a Form 1 Record of Complaint with respect to a fellow officer using police resources to assist him in his unauthorized off-duty employment. Related criminal proceedings were also launched against the officer.

Following the *Police Act* investigation, the Discipline Authority determined that the respondent, while employed as a police officer, had accessed the department's CPIC records to locate an individual he needed to serve in his secondary employment as a process server. It was also determined that on a number of occasions, the respondent inappropriately identified himself as a police officer. It was further found that some of the affidavits sworn by the respondent during the course of his employment as a process server were fabricated. The respondent had dishonestly enlisted other officers to act as commissioners for swearing the affidavits.

Prior to the conclusion of the investigation the respondent officer retired and was no longer employed as a police officer. The department felt it imperative that a full investigation still be conducted to maintain and restore the public and police officers' confidence in the administration of police discipline.

Following the investigation, the Discipline Authority found that the respondent not only committed the default of Discreditable Conduct, but also substantial evidence supported the defaults of Corrupt Practice and Improper Off-Duty Conduct. The Discipline Authority determined that had the officer not retired, the appropriate disciplinary measure would have been ***dismissal***.

The officers who had acted as commissioners were interviewed and all acknowledged a level of confusion about their powers under the *BC Evidence Act*. To prevent similar issues arising again, the Training Section published a bulletin outlining an officer's responsibilities under the Act. The department also had senior management

reinforce and clarify the policy respecting officers engaging in off-duty employment and what employment may pose a conflict of interest.

- **File No. 2575 – Public Trust**
  Default: Discreditable Conduct

  The complainant had called 9-1-1 with respect to her son's aggressive and threatening behavior. The complainant's son was subsequently arrested and placed in police cells. The complainant spoke with mental health officials, who knew of her son's history, and they felt it in her son's best interests that he be admitted to the hospital's mental health unit. While the paperwork was being prepared, the complainant received a call from the respondent officer, who was unaware of this alternate arrangement, and told her she could pick her son up from cells. The complainant reported that as she tried to explain her son's situation, the respondent officer treated her rudely.

  A complaint was filed and the officer was spoken to about the unprofessional manner in which the situation was handled. The complainant and the respondent officer signed a consent letter, ***informally resolving*** the complaint.

- **File No. 2518 – Public Trust**
  Default: Discreditable Conduct

  The complainant was attending classes at a college when a police officer came from behind and ordered him to stand up and put his hands behind his back. A verbal exchange occurred during which the officer allegedly made inappropriate gestures towards his Taser, saying, "Do you know what this is?" The complainant was handcuffed, dragged out of the college and placed in the respondent's police vehicle. He was then driven around the corner where the respondent released him. The complainant believes that the officer's actions were a result of the complainant's ex-girlfriend making false police reports about him.

  An investigation into the complainant's allegations was temporarily suspended until the related criminal harassment charges laid against the complainant were concluded.

  After the investigation was completed, the Discipline Authority concluded that the allegation of Discreditable Conduct was ***susbstantiated***. The Discipline Authority felt that the respondent officer had inappropriately threatened use of a Taser on a reasonably compliant suspect. The respondent officer received a ***Verbal Reprimand*** and follow-up training regarding proper Use of Force.

- **File No. 2576 – Public Trust**
  Default: Abuse of Authority

The complainant's legal counsel filed a Form 1 Record of Complaint concerning three incidents.

The first incident involved the complainant being detained on suspicion of a purse snatching. The complainant states that he was punched several times, placed in the paddy wagon and left there for three and a half hours.

The second incident involved the complainant being confronted by the police in an alley while smoking crack cocaine. The complainant alleges he was struck twice on the legs with a nightstick, cuffed, then kicked in the ribs, face and head. The complainant was arrested, held for several hours then released.

The third incident involved the complainant claiming that he was beaten by the police when he was arrested as a suspect in a murder investigation.

The police conducted an investigation and with respect to the first allegation, the two respondent officers involved denied using anything more than minimal force to affect the arrest. During an interview with the investigator, the complainant stated that the arresting officer was a "no nonsense guy" who put the handcuffs on tight, however he made no reference to his earlier claim of being punched several times. The Discipline Authority found this allegation to be ***unsubstantiated***.

It was further determined that when the complainant was transported to the police department, the wagon driver had unloaded the two other passengers and the complainant's effects but had inadvertently left the complainant in the rear compartment. Once the arresting officer realized that the complainant was still in the wagon, the driver was immediately notified. The driver, arresting officer and their supervisor apologized to the complainant. The Discipline Authority ***substantiated*** the complaint with respect to the complainant being left in the police wagon and the members received ***Managerial Advice***.

With respect to the second allegation, four officers were identified as arresting the complainant in the alley. The officers denied using excessive force and described the complainant as being cooperative. The Discipline Authority determined there was insufficient evidence to support the allegation of Abuse of Authority and the complainant's second allegation was concluded as ***unsubstantiated***.

Regarding the third allegation, the arresting officers provided Duty Reports, civilian witnesses were interviewed and medical records were obtained. During his arrest, officers noted that the complainant had a knife clipped to his belt and that he was resisting arrest. The complainant was lodged in cells and during his interview with a homicide detective, he complained of having a sore wrist. The complainant was taken to the hospital where X-rays showed he suffered a sprained wrist. Based on the information gathered, the Discipline Authority concluded that although the

complainant was injured during his arrest, the injuries were consistent with the level of force required and were no more than what may reasonably be expected in the circumstances. The allegation was ***unsubstantiated***.

- **File No. 2347 – Public Trust**
  Default: Abuse of Authority (x5)

  The complainant and her friends were walking in the early morning hours when they were approached by two police officers. The officers were responding to a 911 call from a limousine driver reporting people jumping on his car. The complainant states that she was pushed, hit and forced to the ground where she was handcuffed and her legs bound with plastic ties. While restrained and lying face down, the complainant claims she was repeatedly struck on the back, legs, shoulders and arms. Upon her arrival at the police department, she was strip-searched by three female individuals, whom she states may not have been police officers. The complainant was not given the opportunity to speak to counsel until approximately 8 hours later.

  A complaint was filed, an investigation conducted and the Discipline Authority concluded that the complainant's allegations were ***not substantiated***.. With respect to the complainant's allegation of excessive force, the Discipline Authority determined that the force used by the officers was as a result of the complainant's own combative behaviour. The two officers originally dispatched to the scene had found themselves in a "multiple assailant situation" where they were outnumbered 8 to 2. When back up arrived, the complainant still resisted and struck more officers.

  With respect to the allegation of being strip-searched, the three females were identified as police officers and it was determined that there were proper grounds upon which to conduct a search of this nature.

  For the final allegation of not being provided the opportunity to speak to counsel, the jail records indicate that once the complainant was booked in, she was then taken to hospital for medical treatment. Within 45 minutes of her return to the jail, she had placed at least one phone call.

  The Office of the Police Complaint Commissioner reviewed the entire investigation and confirmed the Discipline Authority's decision that the allegations were ***not substantiated***.

List of Support Groups

Section 54.1(9) and (10) of the *Police Act* states:

> *(9) In the informal resolution process, a complainant may enlist the assistance of a support person of the complainant's choice or may ask the Police Complaint Commissioner to appoint a support person for the complainant.*
>
> *(10) A support person, enlisted or appointed under subsection (9), may*
>
> *(a) be present at any interview about the complaint and at any mediation or informal resolution session, and*
> *(b) participate at any of those sessions with the consent of the respondent*

Section 54.1(8) of the Act requires the Police Complaint Commissioner to provide a list of support groups to help complainants with the informal resolution process. The following agencies have agreed to be listed as support groups for this purpose. Complainants are not limited to this list in choosing a support group or person.

Inter-Cultural Association of Greater Victoria

930 Balmoral Road
Victoria, BC V8T 1A8
Website: www.icavictoria.org

Telephone: (250) 388-4728
Fax: (250) 386-4395

British Columbia Civil Liberties Association

425 – 815 West Hastings Street
Vancouver, BC V6C 1B4
Website: www.bccla.org

Telephone: (604) 687-2929

S.U.C.C.E.S.S.

28 West Pender Street
Vancouver, BC V6B 1R6

Telephone: (604) 408-7238

Municipal Police Agencies

Abbotsford Police Department
2838 Justice Way
Abbotsford, BC V2T 3P5
Tel: (604) 859-5225

Central Saanich Police Service
1903 Mnt Newton Cross Road
Saanichton, BC V8M 2A9
Tel: (250) 652-4441

Delta Police Department
4455 Clarence Taylor Crescent
Delta, BC V4K 3E1
Tel: (604) 946-4411

GVTAPS
307 Columbia Street
New Westminster, BC V3L 1A7
Tel: (604) 515-8300

Kitasoo Xaixais Police Service
General Delivery
Klemtu, BC V0T 1L0
Tel: (250) 839-1010

Nelson Police Department
606 Stanley Street
Nelson, BC V1L 1N4
Tel: (250) 354-3919

New Westminster Police Service
555 Columbia Street
New Westminster, BC V3L 1B2
Tel: (604) 525-5411

BC Combined Forces Special Enforcement Unit
BCCFSEU
Tel: (604) 777-7800

Oak Bay Police Department
1703 Monterey Avenue
Victoria, BC V8R 5V6
Tel: (250) 592-2424

Port Moody Police Department
3051 St. John's Street
Port Moody, BC V3H 2C4
Tel: (604) 461-3456

Saanich Police Department
760 Vernon Avenue
Victoria, BC V8X 2W6
Tel: (250) 475-4321

Stl'atl'imx Tribal Police Service
22 Retasket Drive, PO Box 488
Lillooet, BC V0K 1V0
Tel: (250) 256-7784

Vancouver Police Department
312 Main Street
Vancouver, BC V6A 2T2
Tel: (604) 717-3535

Victoria Police Department
850 Caledonia Street
Victoria, BC V8T 5J8
Tel: (250) 995-7654

West Vancouver Police Department
1330 Marine Drive
West Vancouver, BC V7T 1B5
Tel: (604) 925-7300

Complaints against the RCMP in British Columbia should be directed to:

Commission for Public Complaints Against the RCMP
7337 – 137 Street, Suite 102
Surrey, BC V3W 1A4
Tel: (604) 501-4080 / Fax: (604) 501-4095
Toll free: 1-800-665-6878